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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 LLOYD F. BENSON, III,

12 Plaintiff,

13 v.
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15 CITIBANK, N.A., et al.,

16 Defendants.
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Case No.: 12-cv-760 JSC

**ORDER RE: SCHEDULE FOR
DEFENDANTS' MOTION TO
DISMISS PLAINTIFF'S THIRD
AMENDED COMPLAINT (Dkt. No. 63)**

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19 Now pending before the Court is Defendants' Motion to Dismiss Plaintiff's Third
20 Amended Complaint. (Dkt. No. 63.) Plaintiff, who is represented by counsel, failed to
21 timely file an Opposition or Statement of Non-Opposition to the Motion to Dismiss, as
22 required by Local Rule 7-3(b). Further, Plaintiff failed to respond to an Order to Show Cause
23 as to why the case should not be dismissed for failure to prosecute based on his failure to
24 respond to the motion to dismiss. (Dkt. No. 64.) The matter was set for hearing today,
25 August 29, 2013, and counsel for both Plaintiff and Defendants appeared. Counsel for
26 Plaintiff stated that because the parties are close to settlement she elected not to respond to the
27 Court's Orders. As the Court stated on the record, counsel's decision not to do so placed her
28 client in serious jeopardy of having his case dismissed for failure to prosecute.

Nevertheless, given the parties' expressed mutual desire to attempt to finalize their efforts to settle this matter, the Court will hold the motion to dismiss in abeyance. On or before September 6, 2013, the parties shall file a joint statement indicating that the matter has been settled. If no such submission is made by September 6, 2013, Plaintiff's opposition to the motion to dismiss is due September 13, 2013. Defendants shall have until September 20, 2013 to file a reply and as of that date the matter will be deemed submitted.

IT IS SO ORDERED.

Dated: August 29, 2013


JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE